

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

VIDEO GAMING TECHNOLOGIES, INC.,

Plaintiff,

vs.

CASTLE HILL STUDIOS LLC, *et al.*

Defendants.

CASE NO. 17-CV-00454-GKF-JFJ

**DEFENDANTS' MOTION FOR LEAVE TO FILE**  
**SUMMARY JUDGMENT NUNC PRO TUNC**

Defendants Castle Hill Studios, LLC, Castle Hill Holdings, LLC, and Ironworks Development, LLC (collectively, “Defendants” or “Castle Hill”), bring this motion for leave to file summary judgment *nunc pro tunc*.

Under the Court’s Second Amended Scheduling Order (Doc. 101), all motions in limine, dispositive motions, and Daubert motions were due for filing on October 5, 2018. This deadline followed closely on the heels of the close of expert discovery on September 28, 2018, during which seven expert depositions were conducted by the parties.

After obtaining leave to increase the page limit, Castle Hill’s counsel worked diligently to prepare a voluminous motion and brief in support of motion for summary judgment with supporting exhibits, in addition to five motions in limine and three Daubert motions which were filed with the Court. The Stipulated Protective Order in the case, (Doc. 55) required motions to seal the majority of the extraordinary number of motions and exhibits filed on this single day, particularly given VGT’s designation of virtually all documents and testimony as highly confidential. This greatly added to the time required for preparation and filing. Additionally,

due to the size of Castle Hill's declaration of exhibits in support of its motion for summary judgment, its filing was further delayed by the ECF system.

Castle Hill respectfully submits that the Court grant it leave to file its motion for summary judgment and supporting brief and declaration of exhibits out of time. Castle Hill's counsel worked diligently to pour through the facts involved in this case in which the parties took approximately 40 fact depositions, seven expert depositions, and produced thousands upon thousands of pages, in order to distill that information for the Court and present a motion for summary judgment for the Court to address the merits of VGT's claims. VGT will suffer no prejudice by the Court permitting Castle Hill to file its motion for summary judgment out of time, particularly where Castle Hill filed its motion less than an hour late, at 12:35 a.m. central time the evening of the original deadline. It also serves judicial economy to potentially narrow the claims and issues, or dispense with the case, before trial. Castle Hill requests that the Court allow it to present its hard work to the Court, and grant it leave to file out of time.

### III. CONCLUSION

For the foregoing reasons, Castle Hill respectfully requests that the Court grant leave to file its motion for summary judgment out of time.

Dated: October 12, 2018

Respectfully submitted,

/s/ Robert C. Gill

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of October, 2018, I caused a copy of the foregoing **DEFENDANTS' MOTION FOR LEAVE TO FILE SUMMARY JUDGMENT NUNC PRO TUNC** to be filed using the Court's ECF system, which will provide electronic notification of filing to the following counsel for Plaintiff:

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